UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/158,968	09/21/1998	MARK LUCOVSKY	1570	4579

	7590	02/02/2004

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EXAMINER
DINH, DUNG C

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>02 October 2003</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-22,24,27-42,44 and 45* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-22,24,27-42,44 and 45* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

A request for continued examination under 37 CFR 1.114,

including the fee set forth in 37 CFR 1.17(e), was filed in this

application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the

fee set forth in 37 CFR 1.17(e) has been timely paid, the

finality of the previous Office action has been withdrawn

pursuant to 37 CFR 1.114. Applicant's submission filed on

10/2/03 has been entered.

Response to Arguments

Applicant's arguments filed 10/2/03 have been fully

considered but they are moot in view of the new ground of

rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which
forms the basis for all obviousness rejections set forth in this
Office action:

> (a) A patent may not be obtained though the invention is
> not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject
> matter pertains. Patentability shall not be negatived by
> the manner in which the invention was made.

**Claims 1-7, 10-14, 44 are rejected under 35 U.S.C. 103(a)
as being unpatentable over Gaisford et al. US patent 6,623,586
and further in view of Kirouac et al. US patent 5,155,847.**

As set forth in claim 1, Gaisford discloses in a computer
network; see col. 2, lines 53-57 (the system is a computer
network), a method of deploying a plurality of programs to a
policy recipient (the user in the system is the policy
recipient, the system distributes program updates and repairs),
comprising, maintaining an association between each program and
the policy recipient; see col. 9, lines 45-65 (the distribution
lists maintains the relationship between the entities that are
to receive the object and the distributing agent), determining a
time for deploying each assigned program to the policy
recipient; see col. 9, lines 33-37 (the scheduling data will
have the times for sending out the updates. etc.), and making
that program available to the policy recipient at that time, and
deploying each published program to the policy recipient when
the published program is activated via the computer system; see
col. 15, line 29 - col. 16 line 14, also see fig. 9, (the user
upon selecting the program will have the option of launching the
update, or alternatively the update will automatically launch).

Gaiford does not specifically disclose association
corresponding to a program that is assigned as mandatory and

other association corresponding to a program that is published

as optional. Designating certain programs as mandatory or

optional is well known in the art. In similar field of

invention, Kirouac discloses mandatory programs are used by all

users and optional programs are available for some of the users

(col.3 line 65 to col. 4 line 8). It is inherent that Gaiford

would have certain programs that are mandatory and others that

are optional. It would have been obvious for one of ordinary

skill in the art to designate mandatory and optional programs

because it would reduce licensing cost and storage space on

users's computers of programs that are not required or used.

As set forth in claim 2, Gaisford discloses a method

wherein the policy recipient is a user, and wherein determining

a time for deploying each assigned program to the policy

recipient includes detecting that the user is logging on to the

network; see col. 5, lines 33-52, col. 6; lines 1-21, col. 7,

lines 15-20 (after joining a network and becoming part of a

distribution list, scheduling data will be provided as well as

the institution of distribution policies in place, by detecting

that a user has logged on to a network the availability of

updates as well as the automatic installation of required

updates will be instituted).

As set forth in claim 3, Gaisford discloses a method
wherein the policy recipient is a machine comprising the
computer system, and wherein determining a time for deploying
each assigned program to the policy recipient includes the
detecting that the machine is connecting to the network; see
col. 5, lines 33-52, col. 6. lines 1-21, col. 7, lines 15-20
(after joining a network and becoming part of a distribution
list, scheduling data will be provided as well as the
institution of distribution policies in place, by detecting that
a user has logged on to a network the availability of updates as
well as the automatic installation of required updates will be
instituted).

As set forth in claim 4, Gaisford discloses a method
wherein determining a time for deploying each assigned program
to the policy recipient includes polling machines in the
network; see col. 10, lines 27-33, (distribution of the programs
requires polling the machines to determine their availability,
the existence of target lists in and distribution lists in
Gaisford indicates that polling is done, as opposed to simply
broadcasting the update across the network).

As set forth in claim 5, Gaisford discloses a method
further comprising detecting a request to run a selected one of
the assigned programs, accessing the registry to locate the

selected assigned program, and executing the selected assigned

program; see fig 9, and col. 15, line 29-col. 16, line 14,

clicking on the icon will indicate a desire to launch that

program.

As set forth in claim 6, Gaisford discloses a method

wherein the step of maintaining an association between each

assigned program and the policy recipient comprises storing at

least one script in association with policy information for that

policy recipient; see col. 11, lines 1-8.

As set forth in claim 7, Gaisford discloses a method

wherein storing each script comprises maintaining a centralized

directory of network objects (a list of network objects is

maintained by the system see fig. 2).

As set forth in claim 10, Gaisford discloses a method

wherein the making the program available to the policy recipient

comprises writing :information to a registry associated with the

policy recipient such that a request related to executing the

program prior to installation of program code used to execute

the program on the computer system will have corresponding

information in the registry that identifies the program for

automatic installation and execution thereof; see fig 9, and

col. 15, line 29 to col. 16, line 14.

As set forth in claim 11, Gaisford discloses a method
wherein writing information to the registry comprises
maintaining in the registry an association between the program
and class identifier information; see col. 9, lines 45-65 (the
distribution lists maintains the relationship between the
entities that are to receive the object and the distributing
agent).

As set forth in claim 12, Gaisford discloses a method
wherein writing information to the registry comprises
maintaining in the registry an association between the
application program and a file extension; see col. 9, lines 45-
65 (the distribution lists maintains the relationship between
the entities that are to receive the object and the distributing
agent, an application and file extension would be covered in the
system).

As set forth in claim 13, Gaisford discloses a method
further comprising, detecting a user request to open a file
(clicking on an icon), determining the file extension and
accessing the registry to locate a corresponding program
associated with the file extension (the pointer to the network
component), and opening the file with the corresponding program;
see fig 9, and col. 15, line 29-col. 16, line 14.

As set forth in claim 14, Gaisford discloses a method
further comprising the steps of, determining if the program is
locally installed, and if not installed, installing the program
and executing the program to open the file; see fig 9, and col.
15, line 29-col. 16, line 14 (if the system has no updates and
the program is locally installed it will launch, if it is not
locally installed and the pointer is to the update or the
program, the user can launch the program).

As per claim 44, it is rejected under similar rationale as
for claim 1 above.

**Claims 8-9, 15-22, 24,27-34, 35-42, 45 are rejected under
35 U.S.C. 103(a) as being unpatentable over Gaisford and Kirouac
and further in view of Moore et al. US patent 5,732,266.**

As set forth in claim 8, Gaisford does not specifically
discloses making the program available for execution prior to
installation of program code. In similar filed of invention for
software installation, Moore teaches providing application
launching information on a user computer such that it enables an
application to be available for execution prior to installation
of the program code. (see col.1 lines 55-60, col.2 lines 52-54).
It would have been obvious for one of ordinary skill in the art
to combine the teaching of Moore with Gaisford and Kirouac

because it would have enabled automatically installation when the user wants to use the application.

As set forth in claim 9, it is rejected under similar rationale as for claim 8 above. Gaisford teaches using icon to indicate available of applications [fig.9].

As set forth in claim 15, it is rejected under similar rationale as for claims 1 + 8 above. Moores teaches using script with information about the application [col.2 lines 1-20].

As set forth in claim 16, Gaisford discloses a method wherein the policy recipient is a user, and wherein the step of applying the policy to the policy recipient is performed as part of a user network log on process; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 17, Gaisford discloses a method wherein the policy recipient is a machine, and wherein the step of applying the policy to the policy recipient is performed as part of a re-boot process of the machine; see col. 5, lines 33-

52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a

network and becoming part of a distribution list, scheduling

data will be provided as well as the institution of distribution

policies in place, by detecting that a user has logged on to a

network the availability of updates as well as the automatic

installation of required updates will be instituted).

As set forth in claim 18, Gaisford discloses a method

wherein the step of associating the script with a policy

comprises the step of maintaining the association in a

centralized directory of network objects; see col. 11, lines 1-

8, (a list of network objects is maintained by the system see

fig. 2).

As set forth in claim 19, Gaisford discloses a method

wherein applying the policy to the policy recipient includes

adding an application shortcut to a user profile to advertise

the program as available for execution (the provision of thee

icon that then prompts the user to install the program, see fig.

9).

As set forth in claim 20, Gaisford discloses a method

wherein the step of applying the policy to the policy recipient

includes the step of writing information to a registry

associated with the policy recipient; (having a network

administrator or the user adjust the distribution list).

As set forth in claim 21, Gaisford discloses a method
wherein the step of writing information to a registry comprises
the step of maintaining in the registry an association between
the application and class identifier information; see col. 9,
lines 45-65 (the distribution lists maintains the relationship
between the entities that are to receive the object and the
distributing agent).

As set forth in claim 22, Gaisford discloses a method
wherein the step of writing information to a registry comprises
the step of maintaining in the registry an association between
the application and a file extension; see col. 9, lines 45-65
(the distribution lists maintains the relationship between the
entities that are to receive the object and the distributing
agent, an application and file extension would be covered in the
system).

As per claims 24,27-34, and 35-42 they are rejected under
similar rationale as for claims 15-22 above.

As per claim 45, it is rejected under similar rationale as
for claim 15 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (703) 305-9655. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 4:30 PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (703) 305-4792.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 2100 Customer Service whose telephone number is (703) 306-5631.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to: (703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA, Fourth Floor (Receptionist).

Dung Dinh
Primary Examiner
January 24, 2004